IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.M.JOSEPH

THURSDAY, THE 7TH JUNE 2007 / 17TH JYAISHTA 1929

WP(C).No. 17361 of 2007(P)

PETITIONER:

C.ARAVINDAKSHAN, AGED 55 YEARS,
S/O.CHENNAN KUTTY, LAKSHMI RAJ,
VADAYAPADAM HOUSE, VAZHIKULANGARA, N.PARAVUR,
ERNAKULAM DIST, (VEHICLE SUPERVISOR,
RETIRED FROM KSRTC, N. PARAVUR DEPOT).

BY ADV. SRI.S.SUGATHAN

RESPONDENTS:

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1. THE KSRTC REPRESENTED BY THE
MANAGING DIRECTOR, TRANSPORT BHAVAN,
FORT P.O., THIRUVANANTHAPURAM.

2. THE ASST.TRASNSPROT OFFICER,
KSRTC, N.PARVUR UNIT, N.PARAVUR P.O.,
ERNAKULAM DIST.

3. THE STATE OF KERALA,
REPRESENTED BY THE SECRETARY OF THE
TRANSPORT DEPARTMENT, THIRUVANANTHAPURAM.

BY SC SRI. JOHNSON P. JOHN.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 07/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.M.JOSEPH, J.

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WP.(C) No.17361 of 2007

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Dated this the 7th day of June, 2007

JUDGMENT

Petitioner retired from the KSRTC on 31.8.2006. The prayer in the writ petition is to direct the respondents to disburse DCRG, commuted value of pension, General Provident Fund with interest till the date of payment and Staff Welfare Fund.

2. Heard counsel for the petitioner and Standing Counsel for the respondent Corporation.

3. In regard to the payment of pensionary benefits, the question is squarely covered by the order of the Division Bench in W.A. 289 of 2001. In that judgment, in view of the financial condition of the KSRTC, the Division Bench ordered that payments will be made according to seniority. Counsel for the KSRTC points out that payments have been made for those persons who have retired upto 2003. Of course this court has made deviation from the principle of seniority in established cases warranting deviation like marriage etc. There is no such case pleaded in this writ petition apart from

submitting that petitioner had two sons, who are unemployed. I do not think that this is a ground for overlooking seniority. No doubt learned counsel for the petitioner relied on the decision reported in **D.S. Nakara v. Union of India** (AIR 1983 SC 130) for the proposition that pension is a right and does not depend upon the discretion of the Government. As far as KSRTC is concerned, there is a Division Bench decision binding the KSRTC. I feel that I cannot go against the direction of the Division bench and direct the respondents to disburse DCRG and the commuted value of pension within a time as requested by counsel for the petitioner. At the same time, however, I feel that the petitioner may be paid the amount payable to him by way of Provident Fund with statutory interest till the date of payment. He is also entitled to be paid the entire amount due by way of Staff Welfare Fund.

In such circumstances, the writ petition is disposed of directing the first respondent to disburse the entire amount due by way of Provident Fund with statutory interest from the due date till the date of payment within a period of ten weeks from the date of receipt of a copy of this judgment. The amount due to the petitioner by way of Staff

Welfare Fund will also be paid by the first respondent within a period of ten weeks from the date of receipt of a copy of this judgment. In regard to the other pensionary benefits, petitioner has not established as of now any need for ordering deviation from the principle of seniority.

(K.M. JOSEPH, JUDGE)

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